

## SECOND MODIFICATION TO SETTLEMENT AGREEMENT

WHEREAS EnerNOC, Inc., EnergyConnect, Inc., CPower, Inc., and Innoventive Power, LLC (collectively, "Petitioners") and the United States Environmental Protection Agency ("EPA" or "Respondent"), previously entered into a Settlement Agreement ("Agreement") on December 19, 2011, to resolve Petitioners' challenges in the United States Court of Appeals for the D.C. Circuit, Nos. 10-1090 and 10-1136, to the final Clean Air Act rules promulgated by EPA titled "National Emission Standards for Hazardous Air Pollutants for Reciprocating Internal Combustion Engines; Final Rule," 75 Fed. Reg. 9,648 (March 3, 2010), and "National Emission Standards for Hazardous Air Pollutants for Reciprocating Internal Combustion Engines," 75 Fed. Reg. 51,570 (August 20, 2010); and

WHEREAS Petitioners and EPA previously entered into a modification of the Agreement to extend the time under which EPA agreed to sign the notice of proposed rulemaking referenced in paragraph 2 of the Agreement, from April 20, 2012 to May 22, 2012; and

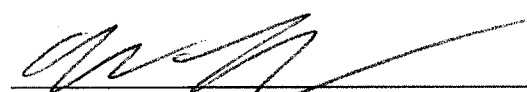
WHEREAS EPA requires additional time to sign a final action on the proposed rulemaking referenced in paragraph 2 of the Agreement;

NOW, THEREFORE, the Petitioners and EPA (collectively the "Parties" to this Modification to Settlement Agreement), intending to be bound by this

Modification to Settlement Agreement ("Modification"), hereby stipulate and agree as follows:

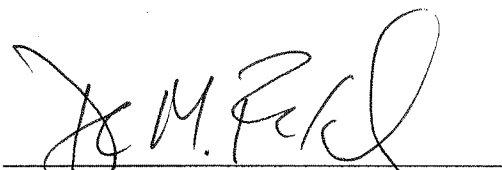
1. The date "December 14, 2012," set forth in paragraph 2 of the Agreement is replaced with "January 14, 2013."
2. No provision of this Modification shall be interpreted as or constitute a commitment or requirement that EPA obligate funds in contravention of the Anti-Deficiency Act, 31 U.S.C. § 1341.
3. The undersigned representatives of each party certify that they are fully authorized by the party that they represent to bind that respective party to the terms of this Modification. This Modification is final and effective once signed by each of the undersigned representatives of each party.

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Dated: 12/12/12

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